

Equality in our Lifetime?

The Discrimination Law Review Green Paper
– what is needed from a Single Equality Act

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EQUALITY IN OUR LIFETIME?

THE DISCRIMINATION LAW REVIEW GREEN PAPER - *WHAT IS NEEDED FROM A SINGLE EQUALITY ACT*

1) INTRODUCTION

The Discrimination Law Review is the means by which the government is taking forward a manifesto commitment to introduce a Single Equality Act within the lifetime of this parliament. That commitment reflected a recognition that current law is too often failing to tackle discrimination and deliver a more equal society. The Mayor believes that the Discrimination Law Review is an opportunity to address the major weaknesses in the law and its enforcement. The Single Equality Act that results from the review must be legislation that is able to fully uphold equality and robustly deter discrimination.

This is most likely to be the outcome if the broadest range of opinion is heard during the development of proposals. The Mayor urges Londoners to contribute to the consultation on the Green Paper¹ and is in favour of a Draft Bill to allow for parliamentary scrutiny and further consultation. The Green Paper is the first proposal from the Discrimination Law Review. Engagement at all stages in the development towards a Single Equality Act can help ensure the outcome is legislation that is fit to seriously challenge discrimination.

The last decade has witnessed some important advances in equality legislation – for example, protection against sexual orientation, age and religious discrimination (albeit not comprehensive) and, most notably the public sector positive equality duties.

The MacPherson Inquiry following the murder of Stephen Lawrence precipitated the positive duty to promote race equality. This was predicated on the crucial acknowledgement of institutional racism as a result of the inquiry into the handling of Stephen's murder. The duties to promote disability equality and gender equality built on this fundamental step forward, creating proactive, positive duties on public authorities to consider race, disability and gender equality in all their work; to take specific steps for which they can be held publicly accountable; and to consult and involve people who stand to be affected by their policies. These positive equality

¹ *A Framework for Fairness: Proposals for a Single Equality Bill for Great Britain*, Department for Communities and Local Government, 12 June 2007. Deadline for responses: 4 September 2007

laws enacted a qualitatively different approach to discrimination – making employers and service providers in the public sector subject to the principled and practical responsibility to think about and act on discrimination and inequality in all their work.

A Single Equality Act is an opportunity to support the groundbreaking nature of this achievement by building on the principles and practical action enshrined in these duties. It should not lead to a retreat from meaningful positive duties: this would be a major blow to the need to recognise and tackle institutional, structural and systemic discrimination.

A Single Equality Act must tackle discrimination across society, in the private as well as the public sector. Most women in London for example work in the private sector and this sector is increasingly important as a source of service delivery as well as a source of important products such as insurance.

Building on the most powerful approaches to combating discrimination will help us render the current patchwork of law more coherent and effective. The law has many gaps, inconsistencies and weaknesses. In many ways the law remains difficult to access, poorly enforced, with penalties that do not effectively deter discrimination. In various areas it is legal to discriminate: age discrimination in goods and services is legal; carers have no right against discrimination; harassment on the basis of religion is not effectively tackled; it is legal to discriminate on grounds of race in immigration.

Protection varies sharply depending on where and to whom the discrimination takes place: in the public or private sector, while at work or when trying to access a service.

The statistics of inequality show why we need to address these weaknesses.

The Mayor believes that discrimination is wrong wherever it happens, and the law must be fit to deter discrimination equally, deal with discrimination robustly when it occurs and promote and uphold effective positive equality legal duties.

Doing so would not only be socially just, it would be tremendously popular and beneficial for society. Discrimination and inequality deny justice to individuals and communities and deprive society from benefiting from all the talents of people.

The Discrimination Law Review must grasp the scale of the opportunity confronting us to transform society for the better.

2) AIM OF THIS PAPER

This paper is provided as information at the outset of the consultation on the Green Paper on proposals for a Single Equality Bill and particularly for attendees to the Mayor's seminar on 27 June. It is not a comprehensive analysis on all proposals nor is it a final setting out of the Mayor's submission to the consultation.

Further information can be obtained on the Mayor's view on the future of equality at: <http://www.london.gov.uk/mayor/equalities/dlr.jsp>

3) THE EQUALITY CHALLENGE

The realities of inequality show why anti-discrimination law must be radically improved and backed by powerful enforcement powers. To give just a few examples:

- The average gender pay gap is wider in London, at 2 per cent compared to a UK average of 17 per cent. Many more men than women occupy higher paid jobs in London, with men outnumbering women as pay rises. But the gender pay gap is not only due to structural occupational segregation: the gender pay gap is widest within the highest income bracket, at a 32 per cent average.²
- 39 per cent of children are in income poverty in London, but for Black ethnic groups this goes up to 51 per cent and for Pakistani and Bangladeshi groups it reaches 69 per cent³.
- Black and minority ethnic men in London are less likely to be in employment than white British males: 60 per cent of Pakistani/Bangladeshi men and 63 per cent of black or black British men are in employment compared with 80 per cent of men in white groups⁴. In London on average BAME employees earn £9.43 per hour, compared with £11.93 per hour for white groups. Overall, and 30 per cent of BAME employees earn less than £7 per hour, compared with less than 18 per cent of white groups.
- A recent parliamentary report confirmed that young black people are over-represented in the criminal justice system, representing 2.7 per cent of the population aged 10–17, but 8.5 per cent of those of that age group arrested in England and Wales. As a group, they are more

² Women in London's Economy report, 2007.

³ Households Below Average Income, Department for Work and Pensions

⁴ Introducing the Annual Population Survey: Preliminary results for the 2004 APS GLA DMAG briefing 2005/34

likely to be stopped and searched by the police, less likely to be given unconditional bail, more likely to be remanded in custody than white young offenders and likely to receive more punitive sentences than young white people⁵.

- Disabled children continue to face severe discrimination: only 60% of pupils with Special Educational Needs statements are placed in mainstream schools but in English special schools 61% of pupils are not entered for any GCSE/GNVQs compared to 4% of children in mainstream schools⁶; 43% of disabled people are in employment in London compared with 74% of non-disabled people⁷. Disabled people are under-represented in managerial, professional and technical occupations and over-represented in routine and elementary occupations.
- Research carried out by the University of Cardiff (for Stonewall) in 2004 found that one in five workers still felt unable to reveal their sexual orientation, despite the introduction of the Employment Equality (Sexual Orientation) Regulations 2003.
- Age discrimination legislation does not cover provision of goods and services, allowing ageism in the provision of health care, insurance and other parts of life to persist. Research published in June 2007 drew attention to the scale of elder abuse and the need for action.
- Discrimination legislation does not cover carers as such, yet the disadvantage they experience is systemic. Many carers have difficulty combining caring with employment and need to work part-time. From April 2007 the DTI Regulation on Flexible Working extends the right to request flexible working to carers – but only of close relatives or people living in the same house, not for wider family members, friends and neighbours. However there are fewer part-time job opportunities in London. While carers on low incomes can claim a carer's allowance (less than £49 per week) if providing care for 35 hours or more, this is set against any other income related benefits and London's higher living costs are not reflected.
- A significantly larger proportion of Muslim residents live in a socially deprived area than any other faith, based on respondents to the 2001 Home Office Citizenship Survey; Muslims aged 16-24 are achieving higher qualifications than older Muslims, yet younger Muslims in London still have lower levels of qualifications compared to their peers in the general population (Muslims in London report, GLA 2006). Sections of the media spread prejudicial attitudes about religious or ethnic minority groups with apparent impunity.

⁵ Young Black People and the Criminal Justice System, Home Affairs Select Committee, June 2007

⁶ cited in Disablist Britain, Demos/Scope, 2006

⁷ Introducing the Annual Population Survey: Preliminary results for the 2004 APS GLA DMAG briefing 2005/34

4) CONTEXT OF DISCUSSION

Although the Discrimination Law Review is an opportunity to deliver law that can more effectively uphold and promote equality, it has been surrounded by a confused debate on the future of equality.

The creation of the Commission for Equality and Human Rights took place prior to the review of anti-discrimination law that many stakeholders pointed out would itself inform the future shape of enforcement bodies, and with serious concern that the CEHR is weakened by a lack of representative structures and accountability.

This was followed by the work of the Equalities Review, which produced its final report in February 2007. The Equalities Review's remit was to *'provide an understanding of the long term and underlying causes of disadvantage' and 'inform the modernisation of equality legislation'*. However, the Equalities Review failed to analyse institutional discrimination and overly stressed the importance of *'culture' and 'choice'* in unequal outcomes. Ignoring the structural problems of discrimination and inequality helped the Equalities Review to have an overly positive view of how equality is going to be achieved. While the report considered it not *'reasonable'*, for example, to introduce a duty on the private sector to even *'report on their achievements of equality outcomes'*, the panel still expected that within five years *'there will be an honest, transparent means of assessing the progress of the public, private and voluntary sectors in achieving a more representative workforce at all levels. Information will be readily available on a consistent basis.'*

Evidence-based arguments from the widest range of stakeholders will be important to assert a strong case for a meaningful Single Equality Act.

5) WHAT IS NEEDED FROM A SINGLE EQUALITY ACT

The Mayor believes that a Single Equality Act must:

- Have a clear purpose: explicitly aim to prevent structural discrimination and disadvantage. This can be done through a *'purpose clause'*
- Be comprehensive: ensure protection against discrimination covers all grounds and all areas of people's lives, within both public and private sectors, at work and in wider life

- Level upwards: the most effective models of protection should be built upon. The review can also learn from other countries where effective legal models exist
- Promote equality as a positive duty: broadening public sector duties to cover all strands facing discrimination in practical, measurable, change-focused and accountable ways, and propose how these values can apply in other sectors
- Extend protection: such as by a non-discrimination right for carers, outlawing age discrimination in goods and services, providing protection of the law to vulnerable workers and improving rights to flexible working and comprehensively protect against harassment
- Take precedence: by removing or reducing areas currently exempted from anti-discrimination law, such as immigration
- Have meaningful tools to ensure change: such as mandatory equal pay audits, robust mechanisms for positive action, monitoring and intervention to correct discrimination
- Ensure equality in procurement: through a new statutory obligation placing anti-discrimination measures at the heart of the public sector procurement
- Deliver an improved framework of enforcement: allowing for representative legal actions, a workable tribunal system for all types of discrimination cases and improving penalties so that they deter discrimination
- Ensure that people can access justice and effectively uphold rights through the legal process: by improving access to legal support.

6) ISSUES TO BE ADDRESSED

Unfortunately many of these changes above are *not* proposed in the Green Paper – despite wide support for them. In some cases the Green Paper acknowledges that support but rejects the appropriate action. The Green Paper at the moment therefore lacks the comprehensive proposals needed to produce a coherent, effective body of anti-discrimination law, backed by firm enforcement powers.

Issues omitted or rejected include:

- a clear purpose clause
- mandatory equal pay audits
- a duty on public authorities to include equality in procurement
- private sector equality duties
- a non-discrimination right for carers
- ending the many exceptions to anti-discrimination law such as immigration
- representative legal actions
- equality tribunals
- remedies that deter discrimination
- better access to justice
- strong positive action measures
- workforce equality monitoring
- more powerful positive equality duties
- in the public sector
- social model of disability.

A number of issues are included but are too weak – such as age discrimination, extending the public sector positive duties to age, religion and sexual orientation and protection against harassment, particularly on grounds of religion.

7) REMIT

The range of areas excluded from change means that the Green Paper does not meet the remit of the Discrimination Law Review. The Review's **terms of reference** include:

- **'considering the fundamental principles of discrimination legislation and its underlying concepts'**

The failure to give a substantive consideration to issues such as a purpose clause or extending the concept of reasonable adjustment are examples of where the DLR has not properly considered the '*fundamental principles*' and '*underlying concepts*' of discrimination legislation.

- **‘creating a clearer and more streamlined equality legislation framework which produces better outcomes for those who experience disadvantage’**

The proposals will still leave many gaps and inconsistencies. The proposals for the public sector duty threaten to weaken progress and accountability – not ensure better outcomes.

- **‘investigation of new models for incentivising compliance’**

The failure to accept the case for an equality duty on procurement or meaningful sanctions when the law is breached means not giving *‘incentives to compliance’*. While the Green Paper proposes allowing more provision for positive action, there are no incentives to do so.

- **considering ‘a spectrum of enforcement options’**

No significant improvements in enforcement are proposed.

- **creating a ‘fairer’ legislative framework with ‘consistency in protection afforded to different groups’**

There will not be *‘consistency in protection’* as a result of the Green Paper as it stands: for example, if you work in the public sector you will have one set of rights but in the private sector another. Or, if you are discriminated against on the grounds of race by the immigration service these proposals would leave you unprotected.

8) THE GREEN PAPER - OVERVIEW

Consultation: the Green Paper is the first setting out of proposals for a Single Equality Act. It is vital that there is sufficient consultation before legislation goes before parliament. A Draft Bill will help ensure that final proposals are as likely as possible to command broad support.

Principles and concepts: the Green Paper considers some areas where definitions and exceptions could be simplified, but rejects some important possible improvements. The social model of disability is not even considered; an interpretive purpose clause rejected.

Scope: The impact on discrimination of a Single Equality Act will be at best blunted by the failure to propose improved rights in the private sector. In London, 69% of women in work, work in the private sector.

A new duty on public authorities to include equality considerations when procuring services from the private sector is not supported – the Green Paper acknowledges that public sector procurement is worth £125 billion each year in the UK but opposes new law to ensure that public money follows public sector equality standards. Even workforce monitoring or pay reviews are rejected. There is an assumption in the Green Paper that the private sector will regulate itself and that promotion of information on best practice is sufficient. But such voluntarism is evidently not working. Self-regulation is most desirable but will only be effectively encouraged if backed by the existence of powerful rights in law and penalties when they are needed.

Public Sector positive equality duties: although the Green Paper considers integrating the recent positive equality duties – on race, disability and gender – into a single duty and extending this to cover age, sexual orientation and religion, it proposes a weakening of the content of the duty. At present public authorities have to consider equality in everything they do. The Green Paper proposes only requiring public authorities to set equality objectives and to take *'necessary and proportionate'* action to achieve these: a much narrower requirement. Public authorities would no longer be required to produce three-year schemes with detailed requirements, including monitoring. The Green Paper says, for example: *'Our proposed approach would therefore mean that the law would no longer specifically require, for example, employment monitoring of racial groups'*. Without such data collection it will be impossible to judge progress in employment. The proposals would also remove the requirement to consult and involve disabled people in developing equality schemes. The Green Paper proposes to remove the provision for individuals, trade unions and other groups to challenge decisions where they do not take equality into account.

Consistency in protection: A whole series of important individual rights are not supported. From carer's rights, through mandatory pay reviews, to immigration, a number of options for improvement are rejected. In other cases, as in age discrimination and harassment, proposals are very tentative and limited.

Enforcement and incentivising compliance: Anti-discrimination legislation is only as good as the enforcement that accompanies it. Stakeholders have made clear that this is a big area of concern yet the Green Paper rejects any of the key changes in enforcement and access to justice urged by a wide range of stakeholders. Unless this is rethought, the Single Equality Act will not lead to the improvements in outcome that are needed for millions of people.

9) SPECIFIC PROPOSALS IN THE GREEN PAPER

The following list draws out some key issues that may be of particular interest to equality stakeholders – it is not a comprehensive list of the many detailed, and particularly the technical, proposals in the Green Paper.

Principles and concepts: omissions

The Green Paper does not even consider the case for adopting the social model of disability, and rejects protection for people discriminated against due to being perceived as disabled or associating with a disabled person. This protection already exists for other groups and one of the remits of the review is to deliver consistency in protection.

Extending the concept of *'reasonable adjustment'* to other forms of discrimination is opposed.

A purpose clause is opposed, with the Green Paper stating it *'risks causing confusion'*. The three equality commissions argue it would *'greatly aid public understanding'* and provide *'an important statement of basic principles'* to advocate a purpose clause. Legal academic Colm O'Cinneide has said that *'the purpose clause in the Children's Act 1989 has provided invaluable in encapsulating the key principles underpinning the Act and in providing a steer for courts and tribunals'*.

Exceptions from current anti-discrimination legislation would continue, including that the Race Relations Act would not apply to immigration and nationality functions (Annex A).

New equality rights in the private sector: rejected

Only five pages in a 190-page document are devoted to *'promoting good equality practice in the private sector'* (Chapter 6). No new laws or rights are proposed. The chapter proposes to rely on voluntary measures such as: *'...a light touch "equality check tool" for employers...and consider introducing a voluntary equality standard scheme'* and other encouragements to good practice *'without introduction additional legislation'*. Even the modest proposal for employers to monitor and report on equality practices is opposed. The introduction of positive equality duties in the private sector is rejected as entailing a *'significant regulatory burden'*. Such duties have worked well in Northern Ireland. Given the difference in scale between Northern Ireland and Britain, the detailed content of duties may well differ, but the idea that encouragement to good practice will work if unaccompanied by the incentive of legal backing is wishful thinking. Equality monitoring and positive duties would be important steps towards making workforces more representative of the

entire population – addressing the under-representation of sectors of the population in senior jobs, professions, and sectors, and tackling inequality in pay and employment.

Equality duty in Procurement: rejected

Another route towards ensuring the best reach for public sector equality policy and maximising equality outcomes in the private sector is through contracts between the public sector and the private sector. The Mayor has called for a new statutory obligation placing anti-discrimination measures at the heart of the function of public sector procurement. The Green Paper rejects this saying that: *'the CBI agrees that this [equality] can be achieved through the development of clear, consistent and practical guidance'*. This route has failed. There has already been a range of such guidance and policy initiatives such as: the National Procurement Strategy for Local Government, the Commission for Racial Equality's Guide on Race Equality in Procurement and the Equalities Standard for Local Government. Despite these initiatives, Communities and Local Government's 'Two Years On' report on the National Procurement Strategy for Local Government identified that in 2004 only 34 per cent of authorities specifically addressed equality and diversity in their procurement strategies, and in 2005 only 40 per cent of authorities specifically addressed equality and diversity with examples or targets. In other words, these voluntary schemes have not produced the change in public procurement that is required.

The GLA has made substantial efforts to embed equality in its procurement process and is a leader in policy and practice. This has been done despite the frustrations caused by lack of adequate statutory back up. The Mayor's view is that a mandate on public authorities is required for clarity and progress.

Positive action: limited change

The Green Paper does suggest considering widening the potential for organisations to use positive action or *'a wider range of voluntary balancing measures'* to tackle *'under-representation and disadvantage'*. It accepts that the provisions for positive action under European Directives are framed more widely than in British law.

In this light it accepts there is *'scope to expand the measures to address disadvantage'* and that they intend to look at *'whether we should (and if so how) legislate to allow wider voluntary positive measures by political parties in the selection of candidates from ethnic minority communities'*.

However, any such change would not be target-led. It is stressed there would be no goals or monitoring accompanying it and that positive action

would be 'entirely voluntary'. The Green Paper stresses that it even opposes spelling out what kinds of steps would always be legal: *'we do not propose to put details of measures which will always be regarded as falling within the positive action provisions on the face of the legislation'*.

This is much more limited, for example, than the targets on women in senior positions introduced in Norway and Spain for example, or provisions in place in Northern Ireland.

The clear danger is that weak legislation may fail to address the levels of under-representation in key services, employment and public life. If organisations are unclear as to what steps are permitted under law many may not risk doing anything, and many more will have little incentive to do so.

Mandatory pay audits: rejected.

The Green Paper says *'the evidence does not support legislation mandating equal pay reviews... Instead we are focusing on promoting the spread of good practice'*. On the contrary, all the evidence points to the fact that good practice has not succeeded in closing the pay gap and legislation is clearly needed. In London the average gender pay gap is 23 per cent. The backing of the law is needed to incentivise good practice where employers are resistant. Pay reviews can help reveal where problems exist in workforces and are therefore a key step towards remedial action. The Women and Work Commission was divided on pay reviews, with those who supported them saying: *'Despite the good business reasons for undertaking equal pay reviews, employers can be reluctant to conduct reviews voluntarily. The Equal Opportunities Commission's latest survey (2005d) on equal pay review activity found that over two-thirds of organisations had not completed an equal pay review, had none in progress and did not plan to conduct one. This position has not changed since 2002. The EOC concluded that progress on equal pay reviews, particularly in the private sector, had stalled.'*⁸

The Green Paper also rejects allowing hypothetical comparators in equal pay cases, a technical change that could make it easier to fight for equal pay.

⁸ Shaping a Fairer Future, Women and Work Commission, February 2006

Public sector positive equality duties

The Stephen Lawrence Inquiry saw a qualitative step forward in recognition of the reality of institutional discrimination.

The Green Paper proposes to consider broadening the public sector duties to cover three new grounds of age, religion and sexual orientation – an important positive step – but at the same time to weaken the content of the duties. The proposal would radically weaken the changes in this field precipitated by the Lawrence Inquiry.

Firstly, the Green Paper proposes (Chapter 5) that public authorities be required to set priority equality objectives – and take *'proportionate'* action to achieve these. This would be instead of embedding equality in all their policies: at the moment, public authorities have to take equality into account in everything they do. While it is important to have clear objectives, these must be in addition to the current requirement on public authorities to consider equality in all their work. This is not what is proposed.

Secondly, the changes would remove the clear obligation to take steps such as consulting those who will be affected, use evidence, monitor, assess the impact of policies and actions. Public authorities would no longer be required to produce three-year schemes with detailed requirements. The Green Paper says: *'Our proposed approach would therefore mean that the law would no longer specifically require, for example, employment monitoring of racial groups?'* Without such data collection it will be impossible to judge progress in employment equality, for example. The proposals would also remove the legal requirement to consult and involve people. All this would be replaced with *'principles'* to *'underpin effective performance of public sector duties'*. This far less specific duty will also be much harder to enforce.

Thirdly, the changes would remove the provision for individuals, trade unions and other groups to challenge decisions where they do not take equality into account. It is proposed that this will no longer be the case with only the CEHR being able to take enforcement action.

Consistency in protection: a whole series of important individual rights are not supported or are proposed only tentatively.

- **Non-discrimination right for carers: rejected.**

The Green Paper says it is *'not persuaded of the need to create freestanding discrimination legislation for carers'* (Chapter 8).

The option of extending protection to people *'who associate with a disabled person'* – an issue for some carers – is also rejected. The paper says it will take into account the outcome of a case referred to the European Court of Justice⁹ but the suggestion is of no action if the carer does not win the case. The decision to oppose rights for carers affects a huge group of people, facing great need: for example, in London alone there are more than 600,000 people providing unpaid care.

- **Harassment: tentative**

Although the Green Paper considers extending protections against harassment, it is very tentative. Support will have to be registered to secure this change. On harassment on religious grounds it is particularly tentative asking: *'do you think that harassment on grounds of religion or belief should be treated differently from the other protected groups'* (Chapter 14).

- **Age discrimination: tentative**

Protection against age discrimination in employment has recently been extended, but age discrimination in provision of goods and services remains legal. The Green Paper (Chapter 9) considers the case for extending protection, but is very tentative, asking: *'whether legislation is the most appropriate and proportionate way of addressing the needs of older people and preventing harmful age discrimination outside the workplace'*. It says that there is *'less evidence of harmful age discrimination in the private sector'* and is concerned that *'legislation would place undue regulatory burdens on business'*. A sweeping exception to age discrimination protection is proposed for young people under the age of 18.

- **Transsexual people:** Protection against indirect discrimination on the same basis as recently agreed for direct discrimination is proposed.

Enforcement and incentivising compliance: rejected

Anti-discrimination law on paper alone is not sufficient: any law needs to be backed by robust enforcement. That creates meaningful incentives to comply and allows for rights to be upheld in court if flouted.

The Green Paper rejects any of the key changes in enforcement and access to justice urged by a wide range of stakeholders. This needs to be rethought to allow the Single Equality Act to lead to the improvements in outcome needed by millions.

⁹ Coleman v Attridge Law

- **Representative actions:** these are rejected. Representative actions would allow third parties to take actions on behalf of groups of people. This would mean that the entire weight of combating discrimination did not rest solely on individuals – by definition, often individuals in vulnerable positions – and would allow outcomes to clearly apply to groups, not merely an individual.
- **Hearing all discrimination cases in Tribunals:** Currently discrimination cases about employment are heard in Employment Tribunals but all others to the county courts, where there are costs to lodge cases and at every subsequent stage. These costs are a barrier to people taking cases – as seen in the sharp contrast in numbers of cases in tribunals and county courts. There is a widely supported call for employment tribunals to hear all discrimination cases¹⁰ but the Green Paper ignores this and does not support change.
- **Penalties for discrimination:** There are no proposals for strengthening the penalties available to tribunals and courts where there is a finding of discrimination. Penalties are not proving sufficient to deter discrimination. Repeat offenders get off the hook as each case is considered afresh. Despite occasional high profile cases, compensation levels are generally very low and tribunals have few powers to order offenders to change their ways.
- **Access to justice:** is not considered, but will also be restricted by failure to get representation. The Commission for Equality and Human Rights will take very few legal cases. Legal aid is not available for tribunal cases and while theoretically available for some goods and service cases (in county courts) is rarely awarded and is subject to a strict means test. Legal aid is undergoing a further set of government reforms which may well disproportionately impact on discrimination cases – which can be complex and time-consuming – and may have an indirectly discriminatory impact on the range of practitioners available. Free legal advice is increasingly hard to find due to funding restrictions. Legal aid funding and choice of representation are critical to make rights meaningful.

¹⁰ Supported, among others, by the three equality commissions and in *Equality: A New Framework, Report of the Independent Review of the Enforcement of UK Anti-Discrimination Legislation*, Hepple, Cousey and Choudhury, Hart Publishing, 2000

Workplace dispute issues have been referred to a consultation being undertaken by the Department of Trade and Industry. However, the remit of the Discrimination Law Review included enforcement and it is obvious they remain relevant.

10) TIMESCALE

The deadline for responding to the Green Paper is **4 September**. Anyone can make a submission. Copies of the Green Paper and response information can be obtained from –

<http://www.communities.gov.uk/index.asp?id=1511211>

It is important that the Discrimination Law Review hears from all those with an interest in the future of equality and the ways in which law and its enforcement need to be improved. You can respond to the questions asked but also raise other issues – that may not be included in the Green Paper or on which questions may not be asked.

11) CONCLUSION – EQUALITY IN OUR LIFETIME?

This paper takes a stance: tackling inequality and discrimination is a duty. It is intended to reassert a vision for the kind of Single Equality Act that is needed and why a commitment to review and improve the law established wide support.

It is intended to stimulate awareness about the proposals in the Green Paper, to set out an initial view, and will be further developed as a result of research and consultation with stakeholders.

Now is not the time for a cautious technical adjustment of existing legislation. The Single Equality Act must level up, not just tidy up. The most effective protection should be built upon. Change should definitely not undermine existing protections.

A bold and confident vision for equality needs to be articulated through proposals for a Single Equality Act that is comprehensive, rigorous, based on concepts of equality that can challenge the reality of structural disadvantage and that is proudly enforced.

The Discrimination Law Review must address the gaps and weaknesses in law and enforcement to:

- base anti-discrimination law on concepts that reflect the reality of discrimination
- bring under the scope of the law all forms and areas of discrimination that still remain legal
- level up across all communities or 'strands' facing discrimination, building on the most effective definitions and mechanisms, extending them comprehensively and introducing new measures for positive change
- strengthen access to justice, enforcement and providing penalties that deter discrimination.

That is not where the law stands right now.

However, the Mayor is confident that an open and ongoing consultation process, involving the widest range of opinion, has the potential to produce an act that can encompass a powerful vision for change and these practical steps.

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Vietnamese

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Greek

Αν θέλετε να αποκτήσετε αντίγραφο του παρόντος εγγράφου στη δική σας γλώσσα, παρακαλείστε να επικοινωνήσετε τηλεφωνικά στον αριθμό αυτό ή ταχυδρομικά στην παρακάτω διεύθυνση.

Turkish

Bu belgenin kendi dilinizde hazırlanmış bir nüshasını edinmek için, lütfen aşağıdaki telefon numarasını arayınız veya adrese başvurunuz.

Punjabi

ਜੇ ਤੁਹਾਨੂੰ ਇਸ ਦਸਤਾਵੇਜ਼ ਦੀ ਕਾਪੀ ਤੁਹਾਡੀ ਆਪਣੀ ਭਾਸ਼ਾ ਵਿਚ ਚਾਹੀਦੀ ਹੈ, ਤਾਂ ਹੇਠ ਲਿਖੇ ਨੰਬਰ 'ਤੇ ਫੋਨ ਕਰੋ ਜਾਂ ਹੇਠ ਲਿਖੇ ਪਤੇ 'ਤੇ ਰਾਬਤਾ ਕਰੋ:

Hindi

यदि आप इस दस्तावेज की प्रति अपनी भाषा में चाहते हैं, तो कृपया निम्नलिखित नंबर पर फोन करें अथवा नीचे दिये गये पते पर संपर्क करें

Bengali

আপনি যদি আপনার ভাষায় এই দলিলের প্রতিলিপি (কপি) চান, তা হলে নীচের ফোন নম্বরে বা ঠিকানায় অনুগ্রহ করে যোগাযোগ করুন।

Urdu

اگر آپ اس دستاویز کی نقل اپنی زبان میں چاہتے ہیں، تو براہ کرم نیچے دئے گئے نمبر پر فون کریں یا دیئے گئے پتے پر رابطہ کریں

Arabic

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Gujarati

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